

Appl. No. 10/779,931
Amdt. dated December 20, 2006
Reply to Office Action of September 29, 2006

Docket No. A01493

REMARKS/ARGUMENTS

Claims 1-4 and 11 remain in this application. Claims 5-10 are canceled, without prejudice. Claim 11 is new.

Amendments: Lack of New Matter

Applicant submits that the forgoing claim amendments do not introduce new matter into the present application. The list of active ingredients in new claim 11 is disclosed in the present specification on p. 7, lines 217-224.

Response to Restriction

In response to the restriction requirement required in the above-mentioned Office Action, Applicants Elect Group I, claims 1-4 and 9. Also, Applicants hereby cancel claim 9, without prejudice. Further, Applicants hereby cancel claims 5-8 and 10, without prejudice.

Response to rejection of claims 1-4 over Wooley

In the above-identified Office Action the Examiner rejected claims 1-4 and 9 under 35 USC §102(b) as being anticipated by US 6,383,500 (Wooley).

Wooley's teachings regarding cosmetics are contained in the following paragraph, which Wooley discloses at col. 3, line 65 through col. 4, line 3, and repeated at col. 62, lines 1-6:

The present invention also provides compositions suitable for use in cosmetics, comprising particles comprising amphiphilic copolymers, having a crosslinked shell domain, which can be permeable, and an interior core domain, or a cosmetically salt thereof, and a carrier, excipient, or a diluent suitable for use in cosmetics.

Applicants note the ambiguous phrase "cosmetically salt thereof." Applicants submit that Wooley's intended phrase is "cosmetically acceptable salt thereof."

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Applicants note that Wooley discloses an analogous paragraph regarding a pharmaceutical composition in which Wooley discloses a "pharmaceutically acceptable salt thereof" (col. 3, line 34). Similarly, Wooley discloses a composition suitable for use in foods that possibly contains "a salt thereof acceptable for use in foods" (col. 3, line 53). In sum, Applicants submit that the phrase "cosmetically salt thereof" is intended by Wooley to mean a salt of all or a portion of his particles, where that salt is acceptable for inclusion in a cosmetic composition.

In sum, Wooley only discloses particles that are acceptable to be included in a cosmetic composition. That is, according to Wooley's teaching, particles may be present in the same composition that contains cosmetic ingredients.

Wooley does not teach or suggest that any cosmetic ingredients are a part of the particles themselves. Specifically, Wooley does not teach or suggest that skin care ingredients are a part of the particles themselves.

In contrast, present claim 1 is drawn to polymeric nanoparticles that comprise skin care ingredients. Therefore, Applicants submit that present claim 1 is novel over Wooley. Further, claims 2-4 and 11 are likewise novel over Wooley because they are dependent, directly or indirectly, on claim 1.

Conclusion

In view of the foregoing amendments and arguments, Applicants respectfully request the Examiner to reexamine the claimed subject matter, to withdraw the rejections of the claimed subject matter and to allow claims 1-4 and 11 at this time. If, however, there remain any open issues which the Examiner believes can be resolved by a telephone call, the Examiner is cordially invited to contact the undersigned agent.

No fees are believed to be due in connection with the submission of this amendment; however, if any such fees, including petition or extension fees, are due, the Commissioner is hereby authorized to charge them, as well as to credit any overpayments, to Deposit Account No. 18-1850.

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Respectfully Submitted,

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